regarded with interest by the Germans from the beginning to the end of his stay. The newspapers took much notice of him, too, and his picture was published by every illustrated periodical in the empire. His perfect command of German was a big feather in his cap.

As in the United States, the head of British war department is always a non-military man. Haldane is a lawyer. He was born and educated in Scotland, first at the academy in Edinburg, and later

SANTOS DUMONT.

at the university of the same solid old Scotch town.

His school fellows counted him a wonder. He could get away with a whole page of Cicero or a proposition in Euclid while the others were still struggling with the first few lines. He was so grave and oracular in his demeanor that the whole school knew him as "Solon," though not altogether abandoning the nickname of "Dick."

At the university it was the same. He carried everything before him, but his strong point was philosophy, in which he took first-class honors, and won a celebrated scholarship in it against picked men from four Scottish universities. After finishing his course he went to Goettingen and pitted himself against the acutest German intellects he could find.

He entered himself as a law student at Lincoln's Inn in London before his 18th birthday, but his gluttonous pursuit of philosophy prevented his qualifying for the wig and gown until he was 23. That was in the early eighties, and something not perhaps quite so generously. He is only 45, was born in Minnesota, of New England stock, and seven years ago, when taken into the government service, was a practicing lawyer at Lincoln, Neb.

He didn't seek a Washington place; in fact, had never thought of leaving his Nebraska clients. In 1899, however, when George D. Meikeljohn was assistant secretary of war, he sent for Magoon to visit him in Washington. Magoon went, and was offered a post then about to be

KING HAAKON VII OF NORWAY.

created—that of legal adviser on colonial affairs. Meikeljohn wanted Magoon to take the place because of a bit of good law work he had once done for him in Nebraska. Magoon wired to his partner who laconically wired back: 'Don't be a damned fool!"

Magoon took the place, nevertheless, and since then has proved the fallacy of the notion that no progress is possible in the government service, since he has been successively Panama canal commissioner, governor of the canal zone and minister to Panama, besides having been appointed vice governor of the Philippines on Sept. 16, a place which he has not filled because of his Cuban appointment.

He has been known by everybody who is anybody in Wasnington as "Judge" Magoon ever since he went to the war department, though, as a fact, he has never held a place on the bench. The title was given to him by Meikeljohn, who prefixed his name with "Judge" every time he introduced him.

"Why in heaven's name did you do that, George? asked Magoon the first time they were alone long enough to draw an unobstructed breath or two.

"Because you might as well be in Tophet with a broken back as in Washington without a title," was the reply.

This was not convincing to Magoon, but he had to put with it. When he returns from Cuba his "courtesy judicial title will be displaced in Washington by his now rightful one of "Governor."

Magoon seems to be one of those who win their way by reason of sound knowledge and hard work and not through pull, in which he differs slightly from a few others in the national capital. He had to do a lot of hard work at the start. In order to understand colonial law well enough to fill his place he had to familiarize himself with the history of Florida, Louisiana, Texas, California and Alaska—all our acquired territory, in fact—besides that of the newly acquired islands of Porto Rico, the Philippines, etc. It was a tremendous task.

Gov. Magoon is a modest man. When he went to thank the president for making him zone governor in Panama, Mr. Roosevelt said:

"When a man has won his spurs as you have he need thank no man for permission to wear them."

Magoon's friends think he will yet be more of a world figure than he is now.

DEXTER MARSHALL.

worth while was predicted for him then, as there had been when a student. "He will sit in the woolsack some day," his admirers often said, meaning that he would rise eventually to be lord chancellor.

That prediction has not yet come true, but it is as big a thing to be war minister as to sit on the woolsack, and he still has plenty of time to rise to the lord chancelorship.

He went fast in the law after he got started. He "took silk," that is, was made a queen's councilor, in ten years, and three years ago was promoted to the dignity of a privy councilor. Meanwhile he found plenty of time for politics, and got into parliament in spite of his big practice, which his intimate friends like to brag about, since it yields him $100,000 a year. "Big enough for the income of one of your American incorporation lawyers, isn't it?" they ask with pride.

Mr. Haldane thinks effectively on his feet. His chief outdoor recreation is the old-fashioned one of bicycle riding.

Magoon, Governor of Cuba.

Charles E. Magoon, the one American, excepting Peary, the pole seeker, who has this year reached the level of a world figure, having been appointed provisional governor of Cuba on Oct. 4, is a big man, modeled on lines somewhat similar to War Secretary Taft's, though

GOVERNMENT OWNERSHIP.

It was frankly stated by the Mexican minister of finance, in a speech on Saturday, that the government of that country was prompted to take over the two great railroad lines of Mexico—the Central and National—by the fear that these properties would otherwise be merged into some of the great railroad combinations in the United States. That country, in other words, did not intend that its transportation systems should be controlled and operated by foreign high financiers or for the benefit of alien monopolists. So we are to have a large experience in government ownership and operation of railroads in plain sight.—Springfield Republican.

President's Message Commends Congress

To the Senate and House of Representatives:

As a nation we still continue to enjoy a literally unprecedented prosperity, and it is probable that only reckless speculation and disregard of legitimate business methods on the part of the business world can materially mar this prosperity.

No Congress in our time has done more good work of importance than the present Congress. There were several matters left unfinished at your last session, however, which I most earnestly hope you will complete before your adjournment.

CORPORATION CAMPAIGN CONTRIBUTIONS.

I again recommend a law prohibiting all corporations from contributing to the campaign expenses of any party. Such a bill has already passed one house of Congress. Let individuals contribute as they desire; but let us prohibit in effective fashion all corporations from making contributions for any political purpose, directly or indirectly.

GOVERNMENT'S RIGHT OF APPEAL IN CRIMINAL CASES.

Another bill which has just passed one house of the Congress and which is urgently necessary should be enacted into law is that conferring upon the Government the right of appeal in criminal cases on questions of law. This right exists in many of the states; it exists in the District of Columbia by act of the Congress. It is of course not proposed that in any case a verdict for the defendant on the merits should be set aside. Recently in one district where the government had indicted certain persons for conspiracy in connection with rebates, the court sustained the defendant's demurrer; while in another jurisdiction an indictment for conspiracy to obtain rebates has been sustained by the court, convictions obtained under it, and two defendants sentenced to imprisonment. The two cases referred to may not be in real conflict with each other, but it is unfortunate that there should even be an apparent conflict. At present there is no way by which the Government can cause such a conflict, when it occurs, to be solved by an appeal to a higher court; and the wheels of justice are blocked without any real decision of the question. I cannot too strongly urge the passage of the bill in question. A failure to pass it will result in seriously hampering the Government in its effort to obtain justice, especially against wealthy individuals or corporations who do wrong; and may also prevent the Government from obtaining justice for wageworkers who are not themselves able effectively to contest a case where the judgment of an inferior court has been against them. I have specifically in view a recent decision by a District Judge leaving railay employes without remedy for violation of a certain so-called labor statute. It seems an absurdity to permit a single District Judge, against what may be the judgment of the immense majority of his colleagues on the bench, to declare a law wsolefnly enacted by the Congress to be "unconstitutional," and then deny to the government the right to have the Supreme Court definitely decide the question.

It is well to recollect that the real efficiency of the law often depends not upon the passage of acts as to which there is great public excitement, but upon the passage of acts of this nature as to which there is not much public excitement, because there is little public understanding of their importance, while the interested parties are keenly alive to the desirability of defeating them. The importance of enacting into law the particular bill in question is further increased by the fact that the Government has now definitely begun a policy of resorting to the criminal law in those trust and interstate commerce cases where such a course offers a reasonable chance of success. At first, as was proper, every effort was made to enforce these laws by civil proceedings; but it has become increasingly evident that the action of the government in finally deciding, in certain cases, to undertake criminal proceedings was justifiable; and though there have been some conspicuous failures in these cases, we have had many successes, which have undoubtedly had a deterrent effect upon evil-doers, whether the penalty inflicted was in the shape of fine or imprisonment—and penalties of both kinds have already been inflicted by the courts. Of course where the judge can see his way to inflict the penalty of imprisonment the deterrent effect is increased; but sufficiently heavy fines accomplish much. Judge Holt, of the New York District Court, in a recent decision admirably stated the need for treating with just severity offenders of this kind. His opinion runs in part as follows:

"The Government's evidence to establish the defendant's guilt was clear, conclusive and undisputed. The case was a flagrant one. The transactions which took place under this illegal contract were very large; the amounts of rebates returned were considerable, and the amount of the rebate itself was large, amounting to more than one-fifth of the entire tariff charge for the transportation of merchandise from this city to Detroit. It is not too much to say, in my opinion, that if this business was carried on for a considerable time on that basis—that is, if this discrimination in favor of this particular shipper was made with an 18 instead of a 23 cent rate, and the tariff rate was maintained as against their competitors—the result might be, and not improbably would be, that their competitors would be driven out of business. This crime is one which, in its nature, is deliberate and premeditated. I think over a fortnight elopsed between the date of Palmer's letter requesting the reduced rate, and the answer of the railroad company deciding to grant it, and then for months afterwards this business was carried on, and these claims for rebates submitted month after month, and checks in payment of them drawn month after month. Such a violation of the law in my opinion, in its essential nature, is a very much more heinous crime than the ordinary common vulgar crimes which come before criminal courts constantly for punishment, and which arise from sudden passion or temptation. This crime in this case was committed by men of education and of large business experience, whose standing in the community was such that they might have been expected to set an example of obedience to law, upon the maintenance of which alone in this country the security of their property depends. It was committed on behalf of a great railroad corporation, which, like other railroad corporations, has received gratuitously from the state large and valuable privileges for the public's convenience, and its own, which performs quasi public functions, and which is charged with the highest obligation in the transaction of its business, to treat the citizens of this country alike, and not to carry on its business with unjust discriminations between different citizens or different classes of citizens. This crime, in its nature, is one usually done with secrecy, and proof of which it is very difficult to obtain. The interstate commerce act was passed in 1887, nearly twenty years ago. Ever since that time complaints of the granting of rebates by railroads has been common, urgent, and insistent, and although the Congress has repeatedly passed legislation endeavoring to put a stop to this evil, the difficulty of obtaining proof upon which to bring prosecution in these cases is so great that this is the first case that has ever been brought in this court, and, as I am informed, this case and one recently brought in Philadelphia are the only cases that have ever been brought in the eastern part of this country. In fact, but few cases of this kind have ever brought in this country, East or West. Now, under these circumstances, I am forced to the conclusion, in a case in which the proof is so clear and the facts are so flagrant, it is the duty of the Court to fix a penalty which shall in some degree be commensurate with the gravity of the offense. As between the two defendants, in my opinion, the principal penalty should be imposed on the corporation. The traffic manager in this case presumably, acted without any advantage to himself and without any interest in the transaction either by the direct authority or in accordance with what he understood to be the policy or the wishes of his employer.

CRIMINAL LAW FACULTY.

"The sentence of this court in this case is, that the defendant Pomeroy, for each of the six offenses upon which he has been convicted, be fined the sum of $1000, making six fines, amounting in all to the sum of $6000; and the defendant, The New York Central and Hudson River Railroad Company, for each of the six crimes of which it has been convicted, be fined the sum of $18,000, making six fines amounting in the aggregate to the sum of $108,000, and judement to that effect will be entered in this case."

In connection with this matter I would like to call attention to the very unsatisfactory state of our criminal law, resulting in large part from the habit of setting aside the judgments of inferior courts on technicalities absolutely unconnected with the merits of the case, and where there is no attempt to show that there has been any failure of substantial justice. It would be well to enact a law providing something to the effect that:

No judgment shall be set aside or new trial granted in any cause, civil or criminal, on the ground of misdirection of the jury or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure unless, in the opinion of the court to which the application is made after consideration of the entire cause, it shall affirmatively appear that the error complained of has resulted in a miscarriage of justice.

INJUNCTION SHOULD NOT BE ABOLISHED.

In my last message I suggested the enactment of a law in connection with the issuance of injunctions, attention having been sharply drawn to the matter by the demand that the right of applying injunctions in labor cases should be wholly abolished. It is at least doubtful whether a law abolishing altogether the use of injunctions in such cases would stand the test of the courts; in which case of course the legislation would be ineffective. Moreover, I believe it would be wrong altogether to prohibit the use of injunctions. It is criminal to permit sympathy for criminals to weaken our hands in upholding the law; and if men seek to destroy life of property by mob violence there should be no impairment of the power of the courts to deal with them in the most summary and effective way possible. But so far as possible the abuse of the power should be provided against by some such law as I advocated last year.

In this matter of injunctions there is lodged in the hands of the judiciary a necessary power which is nevertheless subject to the possibility of grave abuse. It is a power that should be exercised with extreme care and should be subject to the jealous scrutiny of all men, and condemnation should be meted out as much to the judge who fails to use it at all when necessary as to the judge who uses it wantonly or oppressively. Of course a judge strong enough to be fit for his office will enjoin any resort to violence or intimidation, especially by conspiracy, no matter what his opinion may be of the rights of the original quarrel. There must be no hesitation in trust to the calm and

GUARD AGAINST ABUSE.

But there must likewise be no such abuse of the injunctive power as is implied in forbidding laboring men to strive for their own betterment in peaceful and lawful ways; nor must the injunction be used merely to aid some big corporation in carrying out schemes for its own aggrandizement. It must be remembered that a preliminary injunction in a labor case, it granted without adequate proof (even when authority can be found to support the conclusions of law on which it is founded), may often settle the dispute between the parties; and therefore if improperly granted may do irreparable wrong. Yet there are many judges who assume a matter-of course granting of a preliminary injunction to be the ordinary and proper judicial disposition of such cases; and there have undoubtedly been flagrant wrongs committed by judges in careless use of the injunctive process in connection with labor disputes even within the last few years, although I think much less often than in former years. Such vinced that this process is habitually abused, whether in matters affecting labor tends to threaten its very existence, for if the American people ever become convinced that this process is habitually judges by their unwise action immensely strengthen the hands of those who are for or in matters affecting corporations, striving entirely to do away with the it will be well-nigh impossible to prevent power of injunction; and therefore such its abolition.